



Livestock Facility Siting Newsletter Release

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REGULATORY OPTIONS UNDER THE LIVESTOCK FACILITY SITING LAW AND RULE

Under the livestock facility siting law, local governments retain the right to plan and zone their communities, and determine whether or not to regulate livestock facilities. The livestock facility siting law does not require local governments to issue individual permits for livestock facilities. Local governments may choose to issue individual permits--or not--depending on community needs. However, the state will not issue livestock siting permits when local communities choose not to require permits.

A local government has three basic options if they wish to regulate livestock operations. They may:

- rely on ordinances unaffected by siting law,
- control land use through zoning districts, or
- issue permits for individual facilities.

The first two options do not require a local government to issue an individual permit for the siting of livestock operations, while the third option does require the issuance of a permit.

INDIVIDUAL PERMITS ARE NOT REQUIRED

Some local governments may choose not to issue individual facility permits. In those cases, local governments may continue to regulate livestock facilities by relying on ordinances unaffected by siting law and controlling land use through zoning districts. Some common ordinances unaffected by the siting law include shoreland and floodplain zoning, construction site erosion control, weight limitations, and manure storage.

In communities with zoning, the livestock siting law does impose new restrictions on agricultural zones. For example, a local government may not prohibit livestock facilities by size in an agricultural zone unless another agricultural zone exists where livestock facilities of all sizes are allowed. Also, if larger livestock facilities are prohibited in an agricultural zone, this prohibition must be justified on public health and safety reasons. Livestock facilities can be prohibited in nonagricultural zones.

INDIVIDUAL PERMITS ARE REQUIRED

Other local governments may decide to issue permits for individual livestock facilities. Local governments choosing to issue individual permits may do so as a ***conditional use*** under a zoning ordinance or as a ***licensing*** permit. Requiring permits through a zoning ordinance offers the most land use control; however, licensing may be a good option in towns that do not have zoning or in counties



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with a mix of zoned and unzoned towns. Towns must have village powers in order to adopt a licensing ordinance.

As of May 1, 2006 local governments choosing to issue permits for individual facilities, either through a conditional use or licensing permit, must follow the state standards and procedures found in the administrative code at ATCP 51 (the Livestock Facility Siting Rule). Local governments with existing ordinances that require permits for livestock operations should review those ordinances immediately and revise them to comply with ATCP 51 if they wish to continue to require permits. These revisions must be complete by November 1, 2006. Local governments not currently requiring permits may adopt an ordinance to do so at any time. These newly adopted ordinances must also use the state standards and procedures found in ATCP 51.

The Wisconsin Counties Association, Wisconsin Towns Association and the Wisconsin Department of Agriculture, Trade and Consumer Protection have developed a model licensing ordinance and a model zoning ordinance. To view these ordinances, visit <http://www.wicounties.org/>.

CONFLICT OF INTEREST

Local governments that choose to administer siting permits must make decisions about permit administration, including determining who will review the applications, who will be available to provide technical assistance to applicants, and who will enforce the permits. When determining the appropriate roles and responsibilities of staff and consultants, local governments should try to avoid actual or perceived conflicts of interest. For example, if land conservation staff helps applicants complete the worksheets, they probably should not be involved in reviewing the worksheets for completeness and accuracy as part of the permit issuance process.

For more information about livestock facility siting and upcoming events and presentations, please visit <http://livestocksiting.wi.gov>.